

STATE PERSONNEL BOARD CALENDAR



DECEMBER 5, 2006

SAN FRANCISCO

State of California

Memorandum

DATE: November 22, 2006

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD – Executive Office

SUBJECT: Notice and Agenda for the **December 5, 2006**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on December 5, 2006, at the **San Francisco Civic Center Complex, Hiram W. Johnson Building, Monterey Room, 455 Golden Gate Avenue, San Francisco, California, 94102**, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the December 5, 2006, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 52, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

A handwritten signature in black ink, appearing to read 'Karen Yu', with a horizontal line extending to the right.

Karen Yu
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location –
San Francisco Civic Center Complex
Hiram W. Johnson Building
Monterey Room
455 Golden Gate Avenue
San Francisco, CA 94102

Teleconference – 320 West 4th Street²
Los Angeles, California, Suite 620

Closed Session Location –
San Francisco Civic Center Complex
Hiram W. Johnson Building
Monterey Room
455 Golden Gate Avenue
San Francisco, CA 94102
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

FULL BOARD MEETING – December 5, 2006

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

FULL BOARD MEETING AGENDA³

DECEMBER 5, 2006
8:30 a.m. – 4:00 p.m.
(or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(8:30 a.m. – 9:15 a.m.)

1. **ROLL CALL**
2. **REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura**
3. **REPORT ON THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)
– Maeley Tom**
4. **REPORT OF THE CHIEF COUNSEL – Elise Rose**
5. **NEW BUSINESS**

Items may be raised by Board Members for scheduling and discussion for future meetings.

6. **REPORT ON LEGISLATION – Sherry Evans**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

(9:15 a.m. – 9:45 a.m.)

7. **ORAL ARGUMENT**

Oral argument in the matter of **CASE NO. 05-1567A**. Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency.

³ The Agenda for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

BREAK

(9:45 a.m. – 10:00 a.m.)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:00 a.m. – 10:30 a.m.)

**8. SUMMARY RECOMMENDATIONS, ASSESSMENT OF DEPARTMENT OF CORRECTIONS AND REHABILITATION HUMAN RESOURCES
– Karen Coffee, State Personnel Board**

At the request of Agency Secretary James Tilton and the Office of the Governor, Karen Coffee lead a team that reviewed the effectiveness of the Division of Human Resources, California Department of Corrections and Rehabilitation (CDCR). This three month project resulted in more than 100 recommendations to improve the effectiveness of Human Resources at CDCR. Ms. Coffee will provide a brief summary of the project's major findings and recommendations.

(10:30 a.m. – 10:45 a.m.)

9. STATE PERSONNEL BOARD HERO PRESENTATION

SPB staff wishes to show our appreciation to departmental staff who dedicate themselves to the improvement of Human Resources in State government. This month, we honor Bev Augustine, Chief Deputy Director (A), Department of Consumer Affairs. Although not working in Human Resources, Ms. Augustine has generously given her time at the California Performance Review and, most recently, as a member of the HR Assessment Team that reviewed the Division of Human Resources, California Department of Corrections and Rehabilitation. Both of these efforts have provided roadmaps to a more effective civil service system.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(10:45 a.m. – 11:45 a.m.)

10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

11. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]

12. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.
Case No. C01-1351 TEH

13. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

14. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(11:45 a.m. – 12:00 p.m.)

15. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF DECEMBER 19, 2006, IN SACRAMENTO, CALIFORNIA

BOARD ACTIONS:

16. **ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF OCTOBER 31, 2006**
17. **ADOPTION OF THE PROPOSED STATE PERSONNEL BOARD 2007 MEETING SCHEDULE**
18. **EVIDENTIARY CASES - (See Case Listings on Pages 9–16)**
19. **RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Agenda on Pages 22–23)**
20. **NON-EVIDENTIARY CASES - (See Case Listings on Pages 17–20)**
21. **NON-HEARING CALENDAR**

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

- A. **BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.**

NONE

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE

22. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

23. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and the State Personnel Board approves it, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, MEDI-CAL BENEFITS AND RATES DIVISION, MEDICAL CARE SERVICES

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief Medi-Cal Benefits and Rates Division is the principal policy-maker and advisor regarding issues with significant policy impact on benefits to citizens, rates to providers, and amongst various beneficiary and provider groups.

DIRECTOR OF HUMAN RESOURCES

The Department of Food and Agriculture proposes to allocate the above position to the CEA category. The Director of Human Resources is responsible for planning, organizing and directing, and controlling a variety of administrative functions.

PROGRAM MANAGER, MOTOR VEHICLE GREENHOUSE GAS EMISSION REDUCTION

The Air Resources Board proposes to allocate the above position to the CEA category, on a permanent basis. This CEA allocation was previously approved on a limited term basis. The Program Manager, Motor Vehicle Greenhouse Gas Emission Reduction is responsible for the development of mobile source-related policies and strategies for consideration by the Air Resources Board that will help achieve the Governor's greenhouse gas reduction targets.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

DEPUTY CHIEF, DIVISION OF LAND RESOURCE PROTECTION

The Department of Conservation has withdrawn their proposal to allocate the above position to the CEA category effective October 31, 2006.

24. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

25. WRITTEN STAFF REPORT FOR BOARD INFORMATION

ANNUAL CENSUS OF EMPLOYEES IN THE STATE CIVIL SERVICE, 2005-2006 FISCAL YEAR

Government Code sections 19237, 19405, 19705, 19792.5(b) and 19793 require the State Personnel Board to provide the Governor and Legislature with an Annual Report regarding the state civil service workforce. This report covers the 2005-06 fiscal year. SPB staff is requesting the Board to approve this report for submission to the Governor and the Legislature.

26. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

27. RESOLUTION WAIVING DRUG TESTING REQUIREMENT FOR APPLICANTS TO LICENSED VOCATIONAL NURSE POSITIONS WITHIN THE DEPARTMENT OF CORRECTIONS AND REHABILITATION

Federal Receiver Robert Sillen has requested a waiver of the pre-employment drug testing requirement found in the class specification for Licensed Vocational Nurses now being considered for hire to positions within the Department of Corrections and Rehabilitation. Executive Officer Floyd Shimomura has granted the waiver, subject to ratification by the Board. Vote to adopt an amended resolution ratifying the action of the Executive Officer.

28. BOARD ACTIONS ON SUBMITTED ITEMS – (See Agenda on Page 21)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

LUNCH

(12:00 p.m. – 1:00 p.m.)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(1:00 p.m. – 4:00 p.m.)

29. PLANNING SESSION – State Personnel Board Staff

A D J O U R N M E N T

18. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) CASE NO. 05-1737RPA

Appeal from dismissal

Classification: Psychiatric Technician Assistant

Department: Department of Developmental Services

Petition for Rehearing granted March 8, 2006.

Transcript prepared.

Pending oral argument July 11, 2006, Sacramento.

Oral argument heard July 11, 2006.

Case ready for decision by FULL Board.

(2) CASE NO. 05-2596A

CASE NO. 05-2592A and 06-0016A

Appeal from formal reprimand and formal reprimand and five workday's suspension

Classification: Physician and Surgeon, Correctional Facility

Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 6, 2006.

Transcript prepared.

Pending oral argument September 5, 2006, Sacramento.

Oral argument continued.

Pending oral argument October 10, 2006, Sacramento.

Oral argument heard October 10, 2006.

Case ready for decision by FULL Board.

(3) CASE NO. 05-3030A

Appeal from constructive demotion

Classification: Officer Technician

Department: Department of Developmental Services

Proposed decision rejected May 2, 2006.

Transcript prepared.

Pending oral argument August 8, 2006, Los Angeles.

Oral argument continued.

Pending oral argument October 31, 2006, Sacramento.

Oral argument heard October 31, 2006.

Case ready for decision by FULL Board.

- (4) **CASE NO. 05-1351A**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of the Youth Authority
- Proposed decision rejected April 4, 2006.
Transcript prepared.
Pending oral argument August 8-9, 2006, Los Angeles.
Oral argument continued.
Pending oral argument September 5, 2006, Sacramento.
Oral argument heard September 5, 2006.
Case ready for decision by FULL Board.
- (5) **CASE NO. 05-1875A**
Appeal from rejection during probationary period
Classification: Equipment Material Specialist
Department: Department of Transportation
- Proposed decision rejected August 8, 2006.
Transcript prepared.
Pending oral argument October 31, 2006, Los Angeles.
Oral argument heard October 31, 2006.
Case ready for decision by FULL Board.
- (6) **CASE NO. 05-0078A**
Appeal from dismissal
Classification: Workers' Compensation Payroll Auditor
Department: State Compensation Insurance Fund
- Proposed decision rejected May 23, 2006.
Transcript prepared.
Pending oral argument September 5, 2006, Sacramento.
Oral argument heard September 5, 2006.
Case ready for decision by FULL Board.
- (7) **CASE NO. 05-0207PA**
Appeal from constructive medical suspension
Classification: Facility Captain
Department: Department of Corrections and Rehabilitation
- Petition for Rehearing granted March 8, 2006.
Transcript prepared.
Pending oral argument August 8, 2006, Los Angeles.
Oral argument continued.
Pending oral argument October 10, 2006.
Oral argument heard October 10, 2006.
Case ready for decision by FULL Board.

(8) PSC NO. 06-03

Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services

Department: Department of California Highway Patrol

Employee Organization: Services Employees International Union, Local 1000 (CSEA)

Oral argument heard October 10, 2006.

Case ready for decision by FULL Board.

B. CASES PENDING

ORAL ARGUMENTS

(1) CASE NO. 05-0947A

Appeal from dismissal

Classification: Housing Finance Specialist (General)

Department: California Housing Finance Agency

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

(1) CASE NO. 05-3773

Appeal from dismissal

Classification: Senior Transportation Engineer

Department: Department of Transportation

- (2) **CASE NO. 05-2585**
Appeal from 10 percent reduction in salary for 13 pay periods
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
- (3) **CASE NO. 05-3690**
Appeal from 10 percent reduction in salary for 12 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (4) **CASE NO. 06-2707**
Appeal from 10 percent reduction in salary for 6 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (5) **CASE NO. 06-1799**
Appeal from 5 percent reduction in salary for 6 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (6) **CASE NO. 05-1652**
Appeal from 20 working days suspension
Classification: Officer
Department: Department of California Highway Patrol
- (7) **CASE NO. 06-2272**
Appeal from official letter of reprimand
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (8) **CASE NO. 06-0826**
Appeal from two days suspension
Classification: Patrol Officer
Department: California State University, San Bernardino
- (9) **CASE NO. 05-0973E**
Appeal from denial of discrimination complaint
Classification: Academic Teacher
Department: Department of Corrections and Rehabilitation
- (10) **CASE NO. 06-1465**
Appeal from 10 percent reduction in salary for 24 months
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

- (11) **CASE NO. 06-1433**
Appeal from official/formal reprimand
Classification: Codes and Standards Administrator I
Department: Department of Housing and Community Development
- (12) **CASE NO. 06-1556**
Appeal from rejection during probation
Classification: Heavy Fire Equipment Operator
Department: Department of Forestry and Fire Protection
- (13) **CASE NO. 06-1814**
Appeal from official letter of reprimand
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
- (14) **CASE NO. 05-0929**
Appeal from rejection during probation
Classification: Health Program Manager I
Department: Department of Health Services
- (15) **CASE NO. 05-1939E**
Appeal from denial of reasonable accommodation
Classification: Hearing Reporter
Department: Workers Compensation Appeals Board
- (16) **CASE NO. 04-0750E**
Appeal from discrimination and retaliation complaint
Classification: Office Assistant (Typing)
Department: Department of Corrections and Rehabilitation
- (17) **CASE NO. 05-2450**
Appeal from 10 percent reduction in salary for 12 pay periods
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
- (18) **CASE NO. 05-0927B**
Appeal for back salary determination
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
- (19) **CASE NO. 06-2288**
Appeal from 30 work days' suspension
Classification: Correctional Lieutenant
Department: Department of Corrections and Rehabilitation

- (20) **CASE NO. 06-1310**
Appeal from 14 working days' suspension
Classification: Regional Administrator
Department: Department of Corrections and Rehabilitation
- (21) **CASE NO. 05-3003**
Appeal from 10 percent reduction in salary for 18 months
Classification: Medi-Cal Technician I
Department: Department of Health Services
- (22) **CASE NO. 05-3425**
Appeal from constructive demotion
Classification: Managing Deputy Commissioner IV
Department: Department of Real Estate
- (23) **CASE NO. 05-3402**
Appeal from three day suspension and five percent reduction in salary for three pay periods
Classification: Fire Apparatus Engineer
Department: Department of Forestry and Fire Protection

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

- (24) **CASE NO. 06-0571R**
Appeal from five percent reduction in salary for 12 months
Classification: Supervising Correctional Cook
Department: Department of Corrections and Rehabilitation

PROPOSED DECISIONS AFTER SPB ARBITRATION

- (25) **CASE NO. 06-1276**
Appeal from five working day's suspension
Classification: Sergeant
Department: Department of California Highway Patrol
- (26) **CASE NO. 06-1953**
Appeal from five working day's suspension
Classification: Officer
Department: Department of California Highway Patrol

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

(1) CASE NO. 05-3113P

Appeal from ten percent reduction in salary for two months

Classification: Senior Vocational Rehabilitation Counselor

Department: Department of Corrections and Rehabilitation

(2) CASE NO. 05-2334P

Appeal from rejection during probation

Classification: Office Assistant (Typing)

Department: Department of Social Services

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) CASE NO. 05-0053A

Appeal from dismissal

Classification: Park Maintenance Assistant

Department: Department of Parks and Recreation

Proposed decision rejected October 10, 2006.

Pending transcript.

(2) CASE NO. 06-0760A

Appeal from rejection during probation

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.

Pending transcript.

- (3) **CASE NO. 05-2211A**
Appeal from dismissal
Classification: Senior Tax Compliance Representative
Department: Employment Development Department

Proposed decision rejected September 20, 2006.
Transcripts prepared.
- (4) **CASE NO. 05-2888PA**
Appeal from dismissal
Classification: Staff Services Analyst (General)
Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.
Pending transcripts.
- (5) **CASE NO. 05-0638A**
Appeal from dismissal
Classification: Conservationist I
Department: California Conservation Corps

Proposed decision rejected September 5, 2006.
Transcript prepared.
- (6) **CASE NO. 05-1567A**
Appeal from dismissal
Classification: Housing Finance Specialist (General)
Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.
Transcript prepared.
Pending oral argument October 31-November 1, 2006, San Diego.
Oral argument continued.
Pending oral argument December 5-6, San Francisco.
- (7) **CASE NO. 04-2919EPA**
Appeal of discrimination and retaliation
Classification: Physician and Surgeon
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted September 20, 2006.
Transcript prepared.
- (8) **CASE NO. 06-0392A**
Appeal of five percent reduction in salary for 24 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected October 31, 2006.
Pending transcript.

20. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION CASES NOT HEARD BY A STAFF HEARING OFFICER

- (1) **CASE NO. 05-2284**
Classification: Tax Auditor
Department: Franchise Tax Board
Issue: Suitability; appellant's misdemeanor convictions and felony conviction.
- (2) **CASE NO. 05-1975**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.
- (3) **CASE NO. 05-1466**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.
- (4) **CASE NO. 05-1977**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.

- (5) **CASE NO. 05-1029**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.
- (6) **CASE NO. 05-1479**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; appellant's failure to disclose two Wet/Reckless convictions.
- (7) **CASE NO. 05-2290**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.
- (8) **CASE NO. 05-3674**
Classification: Hospital Police Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; had a negative employment record.
- (9) **CASE NO. 05-1169**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for one DUI conviction.
- (10) **CASE NO. 05-1681**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.
- (11) **CASE NO. 05-1170**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: Suitability; whether appellant's name was properly withheld for DUI convictions.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

- (1) **CASE NO. 05-3944**
Classification: Cadet, CHP
Department: California Highway Patrol
Issue: The appellant was medically disqualified due to injuries to his neck, back and shoulders that would allow him to safely perform the essential functions of the job.
- (2) **CASE NO. 05-1747**
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: The appellant was medically disqualified due to not meeting the vision acuity standards needed to perform the duties of the job.
- (3) **CASE NO. 05-0956**
Classification: Correctional Officer
Department: Department of Corrections & Rehabilitation
Issue: The appellant was medically disqualified because his hearing did not meet the hearing standards needed to perform the duties of the job.
- (4) **CASE NO. 05-2607**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: The appellant does not meet the minimum psychological qualification standards for State peace officer employment under Government Code § 1031(f) linked to insufficient conscientiousness and self-control.

C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

NONE

D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

NONE

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. CASE NO. 05-1737RPA

Appeal from dismissal. Psychiatric Technician Assistant. Department of Developmental Services. (Oral argument held July 11, 2006.)

7. CASE NO. 05-3030A

Appeal constructive demotion. Office Technician. Department of Developmental Services. (Oral argument held October 31, 2006)

8. CASE NO. 05-1875A

Appeal from rejection during probationary period. Equipment Material Specialist. Department of Transportation. (Oral argument held October 31, 2006)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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(Cal. 12/05/06)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

There is no written legislative report at this time. I will give a verbal presentation on any legislative action that has taken place that will be of interest to the Board.

Please contact me directly should you have any questions or comments regarding any bills that you may have an interest in. I can be reached at (916) 653-0453.

A handwritten signature in cursive script that reads 'Sherry A. Evans'.

Sherry A. Evans
Director of Legislation

STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD DATE DECEMBER 5, 2006

(Cal. 12/05/06)

MEMO TO : STATE PERSONNEL BOARD

FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division

SUBJECT : Non-Hearing Calendar Items for Board Action

NONE PRESENTED

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(Cal. 12/05/06)

MEMO TO : STATE PERSONNEL BOARD

FROM : KAREN COFFEE, Chief, Merit Employment and
Technical Resources Division

SUBJECT : Staff Calendar Items for Board Information

NONE PRESENTED